



AF/2877

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Bruce et al.	Examiner:	Turner, S.
Serial No.:	09/386,112	Group Art Unit:	2877
Filed:	August 30, 1999	Docket No.:	AMDA.261PA
Title:	DUAL-DIFFERENTIAL INTERFEROMETRY FOR SILICON DEVICE DAMAGE DETECTION		

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this communication is being deposited in triplicate, in the United States Postal Service, as first class mail, in an envelope addressed to: Mail Stop Appeal Brief - Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on July 21, 2003.

By: Erin M. Nichols
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REPLY BRIEF

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Sir:

This Reply Brief is submitted in response to the Examiner's Answer dated May 20, 2003, pursuant to 37 CFR § 1.193 for the above-referenced patent application. The Brief is accordingly being filed in triplicate. Appellant respectfully submits that the Examiner's Answer has raised several new grounds of rejection including new arguments and new interpretations of the prior art of record. However, 37 CFR § 1.193 states that, "An examiner's answer must not include a new ground of rejection." Appellant respectfully submits that this Reply Brief be entered and that the Examiner's new grounds of rejection be set aside in considering the merits of the instant appeal. The issues raised in the Examiner's Answer, including the new grounds of rejection, are addressed below chronologically as they appear in the Examiner's Answer.

I. ISSUES AND ARGUMENTS

A. New Grounds of Correspondence Alleged For Rejecting Claim 2 Under § 103(a)

On page 8 of the Examiner's Answer, the Examiner for the first time alleges new grounds of correspondence by arguing that the only way defects are detected is by comparison to some standard. This assertion is made without any citation to prior art. In view of the lack of any prior art citation, it appears that the Examiner is asserting, for the first time, that such limitations are taught inherently – which would be yet another new grounds for rejection. A review of the final Office Action dated August 27, 2002 does not disclose any assertion of the '838 reference teaching, inherently or otherwise, limitations found in claim 2 such as, generating "different third and fourth beams from a nondefective semiconductor and analyzing the different third and fourth beams of light to develop the reference," or even an attempt to support such teaching. Further, the Examiner relies upon unknown prior art without any citations. Appellant would rather not answer the Examiner's question posed at paragraph two of page 8 by proposing design-arounds that would be used against Appellant after issuance of a patent; however, Appellant is entitled pursuant to the rules and laws to see with a citation what art the Examiner is relying upon. Because this alleged rationale was not introduced previously, according to 37 CFR § 1.193, Appellant submits that the argument should be removed.

B. New and Improper Grounds of Correspondence Alleged For Rejecting Claims 3 and 16 Under §§ 112(1) and 112(2)

On page 8 of the Examiner's Answer, the Examiner for the first time alleges new grounds of correspondence, *e.g.*, that the '838 reference teaches detecting the intensity of two different beams and produces a differential between the two detected beams. A review of the final Office Action dated August 27, 2002 does not disclose any assertion of the '838 reference teaching limitations found in claims 3 and 16 such as, "the relational factor is a function of a time differential, or intensity, between the third and fourth beams of light," or even an attempt to support such teaching. Further, claims 3 and 16 are rejected under §§ 112 (1) and 112(2) which are not prior art rejections and

correspondence to the prior art is not at issue. Because this alleged rationale is not relevant and was not introduced previously, according to 37 CFR § 1.193, Appellant submits that the argument should be removed.

C. New Grounds of Correspondence Alleged For Rejecting Claims 1, 10 and 11 Under § 112(1)

On page 9 of the Examiner's Answer, the Examiner for the first time alleges that Appellant "fails to disclose how light entering for the back side of the die and reflected [from] the back side of the die contains defect information from the front surface of the die." A review of the final Office Action dated August 27, 2002 does not disclose any assertion that Appellant's Specification must include such teachings. Because this alleged rationale was not introduced previously, according to 37 CFR § 1.193, Appellant submits that the argument should be removed.

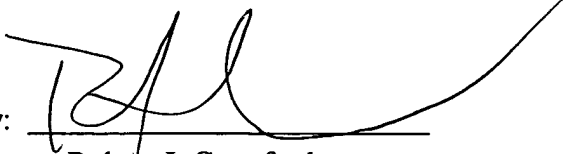
II. CONCLUSION

Appellant respectfully requests that each of the current rejections of the pending claims in the instant application be removed, and that the Examiner enter this Reply Brief identifying and addressing the new grounds of rejection. In view of the foregoing, Appellant believes the claimed invention to be patentable over the cited reference because the reference cited, either alone or modified, does not render obvious Appellant's claimed invention.

Please charge Deposit Account No. 01-0365 (TT2335) if it is believed that additional fees are necessary in connection with the filing of this Reply Brief.

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Respectfully submitted,

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